LEGISLATIVE
OVERSIGHT
COMMITTEE

Final Report

TIFA

TRANSPORTATION
INFRASTRUCTURE
FINANCING
ALTERNATIVES

January 2004

Prepared by
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January 21, 2004

The Honorable Jim Horn
Chair, Senate Highways &
Transportation Committee
Washington State Senate
Olympia, Washington

The Honorable Ed Murray
Chair, House Transportation Committee
Washington State House of Representatives
Olympia, Washington

Dear Senator Horn and Representative Murray:

We are pleased to transmit the Transportation Infrastructure Financing Alternatives Final Report. As directed by the Legislature in the 2002 Transportation Supplemental Budget, the Legislative Oversight Committee, comprised of three members of each of the four caucuses, managed the study and formulated the findings and recommendations presented in the report.

During the past eighteen months, the Committee has examined public private partnerships and other innovative approaches to financing transportation projects. A broad spectrum of experiences in Washington State as well as other States and British Columbia provided actual examples from which we were able to learn about the implementation methods and the issues involved in using non-traditional financing approaches in delivering transportation projects. A number of legal and financial experts advised on various topics ranging from public private legal arrangements to the economics of value pricing. Federal innovative financing programs were presented to explore federal funding opportunities. This data and information has been compiled in the report appendices and provides an excellent resource for those wishing an in depth perspective.

While the legislative directive for this study, targeted the area of public-private partnerships and the barriers encountered, the Committee quickly ascertained that participation in public-private partnerships is largely a function of leveraging funds and project efficiencies. Funding, as noted in the report, refers to the generation of revenue while financing captures the future value of those revenues then pays back over time for the current use of those future revenues. As a result we believed it was of great importance that the spectrum of financing alternatives be examined along with developing a full understanding of the historical and current state funding and financing mechanisms and the use of those funds. To do otherwise would have rendered this effort less than useful to policy makers who must grapple with the issues surrounding transportation funding and the financing of transportation projects.

These recommendations represent a broad range of tactics to finance and fund transportation projects. The committee recognized that no consensus on transportation strategy currently exists and this report would not create that consensus. While there was not a formal vote for each recommendation by the committee as a whole, the findings and recommendations reflect the broad base of ideas generated by individual members.

A minority report to the study has been filed. It is unfortunate that the member's concerns were not raised at any time during the course of the study but rather were brought forward only in recent days as we prepared for final approval of the report. We regret that the issues raised in the minority report did not have the same opportunity for thorough discussion and consideration during our meetings, as was the case with the ideas and suggestions of the other committee members.

In submitting this study for legislative consideration and discussion among all public policy makers, our goal has been to provide a compendium of information and a range of ideas that can be incorporated in a strategy for building transportation projects. We trust this report will aid current and future legislators in the development of a viable long term transportation strategy for Washington State.

Sincerely,

Senator Mary Margaret Haugen
Co-Chair

Representative Fred Jarrett
Co-Chair

"The department of transportation shall provide staff support to a legislative oversight committee that will manage a study of public-private partnerships in transportation. The legislative oversight committee will consist of three members from each caucus in each house of the legislature, appointed by the leadership of the legislators' respective caucus. The legislative oversight committee shall analyze and make recommendations on: (1) The barriers that prevent the private sector from providing transportation services, which could include ferry, bus, or monorail; (2) the use of public-private partnerships nationally and the experiences of other states in using public-private partnerships; (3) the public-private opportunities for transportation projects in Washington; and (4) the advantages and disadvantages of the financing options available for public-private partnerships. The legislative oversight committee shall report its findings and recommendations to the legislature by December 1, 2003." The 2002 Supplemental Transportation Budget

Legislative Oversight Committee

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INTRODUCTION

Transportation funding, finance and strategies are a difficult subject on which no consensus currently exists within Washington State. Certainly that condition was not to be changed by the work of this committee. Consequently, we decided early on in our deliberations that the best way we could add value for the Legislature would be through data gathering, delivery of a compendium of information and the recommendation of a broad range of tactics to finance and fund transportation projects.

This report provides a catalog of the range of alternative funding and financing options available; an examination of the techniques other states have or are using and for what types of projects; and a discussion of what Washington State has been doing in the context of the experience of others. Our goal is to provide a study that will encourage the discussion of how these alternatives can be incorporated in the strategy for building transportation projects in Washington State.

A DEFINITION OF TERMS

Over the years of transportation debate the terms funding, financing, and most recently innovative or alternative financing have come to be used interchangeably often confusing rather than clarifying discussions. For purposes of this study, the committee has drawn distinctions between the terms funding and financing. Transportation funding refers to the generation of revenue through taxes, fees, permits and licenses. Financing refers to capturing the future value of a stream of revenue then paying over time for the current use of those future revenues.

Based upon the funds available the state has to date chosen to finance its capital investment plans in one of two traditional ways, “pay-as-you-go” matching current revenue with current expenditures, or through the issuance of bonds for debt financing. In recent years with the encouragement of the federal government and the pressure of citizen demand for immediate transportation improvements non-traditional borrowing variously known as innovative and alternative financing has emerged.

In many instances, the finance instruments used have been confused with the generation or creation of transportation funding. For example, the use of some of the new federal programs such as Grant Anticipation Revenue Vehicles (GARVEE) bond program or the State Infrastructure Bank (SIB) program, while attractive financing tools in some instances, do not result in new transportation funds. The understanding of these differences is important as strategies are developed to increase funding.

HISTORICAL OVERVIEW OF TRANSPORTATION FUNDING & FINANCE IN WASHINGTON STATE

Washington State used several mechanisms for both the funding and financing of transportation since statehood in 1889. The transition from horse power to internal combustion and the future impact of the auto was first glimpsed in 1905 when the Legislature imposed the annual motor vehicle fee and instituted the first gas tax of 1 cent per gallon. There were 1,200 registered vehicles, 1,082 miles of road and the newly created Highway Board was given an appropriation of $130,000 to improve the condition of the 12 state highways in existence at that time.

By 1921, the number of registered vehicles would increase to 150,000 and the Legislature had modified the fees based on size, weight and horsepower. The State Motor Vehicle Fund had been created and the motor vehicle fees had been dedicated to highway purposes for the first time. By comparison, the number of registered vehicles in Washington State in 1980 was 3,900,000 and in 2002 were 5,650,000.

Since the initial gas tax was levied in 1905, the state has increased the rate on 15 occasions including experimenting with pegging the gas tax to the price of fuel. The longest time period between increases is 16 years, which occurred twice between 1905 and the increase to 2 cents in 1921 and between 1933 and 1949 when the tax rate moved from 5 cents to 6.5 cents.

During this period, the Legislature made its first distribution of the tax to counties and with passage of the State Secondary Highway Act split funds between state, cities and counties. These actions helped establish the role of local governments as integral partners in the provision of transportation services whether improved farm to market roads in rural areas or enhanced freedom of movement in more urban environments.

In the late 1970's the state authorized a variable gas tax based on the then "common wisdom" that the price of fuel would reach $3.00 a gallon by the turn of the century. The first variable tax was authorized at 21.5 percent of the untaxed retail price limited by a 9 cent per gallon floor and a 12 cent ceiling. In 1981 during one of the states most severe recessions, the authorization was changed to 10 percent of retail price with a floor of 12 cents per gallon and a ceiling of 16 cents per gallon. Two years later the variable gas tax law was repealed and the tax rate set at 18 cents per gallon.

Washington State for many years of its history followed a "pay-as-you-go" financing strategy with the notable exception of bridges. Blessed by an abundance of water, the state has faced the challenge of providing crossings of these bodies of water by using tolls to pay for construction of these facilities. The Washington Toll Bridge Authority was constituted as a public agency in 1937 and authorized to issue revenue bonds for the construction of the Lacey V. Murrow

Bridge. In all, Washington State has built 14 bridges that have in whole or in part been paid for with debt financing supported by the pledge of toll revenues.

In 1944, the voters of Washington State approved the 18th Amendment to the State Constitution limiting the use of fuel tax and license fee revenues to highway purposes. With the existence of a dedicated revenue stream that could be bonded, the state was then able to consider the use of debt financing rather than relying on "pay-as-you-go" financing. The Legislature authorized the use of bond financing in 1951 though it did not become common practice until the 1960's as the state struggled to meet capital investment requirements of the state highway system and to pay the state's share of interstate construction. The state has also earmarked new revenue and authorized bonds to pay for specific transportation improvements most notably the ¾ cent for the Special Category C projects (1st Avenue South Bridge, SR 18 and Spokane North South Corridor) and recently for the 2003 "nickel" gas tax increase to pay for a specific project list.

Beginning with the Federal Aid Road Act in 1916 that provided federal funds for highways and established the "federal-state" cooperation that still exists today, the federal government has and continues to play a very significant role in the states transportation affairs. The Federal Highway Act established the Trust Fund to finance the interstate and the federal "ABC" system of primary, secondary and urban highways in 1956. Thus began the major expansion of highway construction with the federal share between 80 and 90 percent financed by a new 5 cent federal gas tax. As noted above, the state many times used debt to pay its match of the federal dollars.

During this period, highway construction was largely a well-funded civil engineering activity meeting the needs and expectations of a society demanding greater mobility and choices of work and living environments. The costly concerns of environmental and neighborhood mitigation only became critical with the passage of the National Environmental Policy Act (NEPA) in 1969 and the State Environmental Policy Act (SEPA) in 1971.

In the early 1990's, the Legislature passed the Growth Management Act (GMA) requiring, among other things, improved planning and coordination of capital infrastructure investments and development. Cities and counties were required to develop a series of plans covering land use, transportation and significant public works, as well as a financing plan demonstrating the jurisdiction's ability to finance public works required by development within six years of the development. This concept was termed "concurrency," the idea that growth and development should be paired with required infrastructure investments. When this pairing couldn't be accomplished, local jurisdictions are prohibited from granting development permits.

GMA concurrency applies only to local government. The Legislature explicitly exempted the state, and specifically state highways, from concurrency despite the importance of state highways in suburban development.

This brief historical overview is intended to provide a context for the challenges facing the state as well as the background from which the committee worked. As is noted, the state has and will continue into the foreseeable future to rely primarily on the fuel tax for its transportation funds. The state has used traditional financing means in the past. The numbers are so much greater whether comparing population, vehicles or miles of roadway. Cities, counties and now regions are partners. With completion of the interstate system the federal share has and will continue to decline. The construction of the highway system witnessed in the past has resulted in a largely "built" system where most future expansions will occur within existing urban corridors requiring more substantial and costly mitigation while minimizing the impact on the environment, neighborhoods and the system's existing capacity.

MAJOR ALTERNATIVE FINANCING TECHNIQUES

The federal innovative financing programs provide an array of tools and institutional arrangements as alternatives to the more traditional grant reimbursement, or pay-as-you-go financing methods. The federal government programs provide loans and credit support, matching funds, and bonding and debt instruments. It should be noted that none of these programs provides any additional revenue for the states. The Federal Highway Administration (FHWA) does not review or approve interest rates, backstops, terms, or anything else regarding the debt instruments. There is also no federal guarantee of payment of bonds, and any pledges must come from state legislation and/or executive authority.

Federal Loans and Credit Support

The **Transportation Infrastructure Finance and Innovation Act** (TIFIA) leverages limited federal resources and stimulates capital investment by providing credit rather than grants to revenue projects of national or regional significance requiring credit assistance through direct loans, loan guarantees, or standby lines of credit.

Direct Loans offer flexible repayment terms and provide combined construction and permanent financing of capital costs.

Loan Guarantees provide full-faith and credit guarantees by the federal government to institutional investors, such as pension funds, which make loans for projects.

Standby Lines of Credit represent secondary sources of funding in the form of contingent federal loans that may be drawn upon to supplement project revenues, if needed, during the first ten years of project operations.

The disadvantages are that the interest rates are higher than state-only borrowing, because lenders assume more risk than when gas taxes or other state revenues back borrowing. TIFIA projects are designated solely by the USDOT based on Congressional criteria which, for example, limits the assistance to 33 percent of eligible project costs and only major projects over $100 million or at least 50 percent of the states' annual apportionment of federal-aid highway funds are eligible.

A TIFIA loan guarantee and line of credit is providing about 15 percent of the financing for the SR 125 toll road in California and a TIFIA direct loan is providing about 30 percent of the financing for the Central Texas Turnpike.[1]

Section 129 Loans allow federal participation in a state loan to a toll project requiring credit assistance and to non-toll projects with a dedicated revenue

[1] Appendix, C-86

stream such as excise taxes, sales taxes, real property taxes, motor vehicle taxes, incremental property taxes, or other beneficiary taxes. The program allows states to leverage additional transportation resources and recycle assistance to other eligible projects and the states have the flexibility to negotiate interest rates and other terms.

The disadvantages are that funding is dependent on available federal funds; it involves a redirection or use of the states' share of federal-aid funding on top of existing federal funds; and it is only applicable to long-term capital projects with non-federal revenue potential. The loans can only be made for active and eligible projects and cannot cover the cost of work done prior to loan authorization. These loans have been used for about 20 percent of the financing for the George Bush Turnpike in Texas.[2]

State Infrastructure Banks are revolving funds capitalized with federal-aid highway dollars that provide loans and other forms of credit assistance to surface transportation projects. They may be leveraged by issuing bonds against future loan repayments. SIB capital can also be used as collateral in the bond market or to establish a guaranteed reserve fund and the states can contribute additional funds beyond that required by the non-federal match.

The disadvantages are that they are generally applicable only to regionally and locally-significant projects with some form of dedicated revenue source and they do require state enabling legislation. South Carolina leads the nation with disbursements of over $1.1 billion to date.[3]

Federal Matching Funds
These are for traditional non-revenue projects, which can expedite project construction by delivering travel time savings and safety improvements earlier. They improve the cash flow and allow states to pursue multiple projects concurrently, stretching limited federal dollars. It also provides more flexibility to the states in satisfying the non-federal matching requirements and in their management of federal funds. There are several programs

- Tapered Match Traditional federal transportation aid to states requires state match federal grants, typically at a 80/20 or 90/10 ratio. Tapered match removes that provision for each funding period and allows the Secretary to develop policies regarding adjusting of the federal match over the life of the project. Tapered match does not change the matching ratios for total project funding, only during funding periods. It is limited to situations where changes in phasing result in expediting project completion, reducing project costs or leveraging additional non-federal funds. With tapered matching, states can advance a project before fully securing bond and capital market financing by using up to 100 percent federal funds in the early phases of a

[2] Appendix, C-73
[3] Appendix, C-72

project which will expedite its completion sooner than using the traditional match procedures.

- Credits for Acquired Land (Third Party Donations) expands current law relating to donated private property to also allow the fair market value of land lawfully obtained by state or local government to be applied to non-federal share of project costs. The acquisition of real property enables states to leverage transportation investment. Third parties include private companies, organizations, individuals and certain publicly owned property.

- Using Federal Funds as Match The state may apply funds from other federal agencies to the non-federal share for transportation enhancement projects. The funds appropriated to any federal land management agency may be used to pay the non-federal share of a federal-aid project funded under Section 104 of Title 23, U.S. Code. The Federal Lands Highway Program funds may be used to pay the non-federal share of projects funded under Section 104 of Title 23 that provides access to or within federal or Indian lands.

- Toll Revenue Credits This allows states to accumulate credits based on toll revenues used to build, improve, or maintain certain highways and bridges to be applied to the non-federal share of certain projects.

- Program Match This establishes annual program-wide approval for State Transportation Plan (STP) projects, rather than the quarterly project-by-project approval process and provides the Secretary with discretion to apply match requirements to the annual program in lieu of individual projects.

- Advance Construction Authority The state may use non-federal funds to advance a federal-aid project while preserving its eligibility to receive federal-aid reimbursements in the future for traditional non-revenue projects. It eliminates the need to set aside full obligation authority before starting projects. The state can undertake a greater number of concurrent projects and facilitates construction of large projects while maintaining obligation authority for smaller ones.

Ohio has used toll revenue credits towards the non-federal matching share of nine federally assisted projects in the Spring-Sandusky corridor.[4]

Bonding and Debt Instruments

Grant Anticipation Revenue Vehicles are a designation for a debt financing instrument that has the pledge of future federal-aid for debt service and is authorized for federal reimbursement of debt service and related financing costs for traditional non-revenue projects. They generate up-front capital for major projects that states may be unable to construct in the near term using traditional

[4] Appendix, C-77

pay-as-you-go methods. They can be used in conjunction with advance construction to enable using federal-aid funds for future debt service payments and enables states to accelerate construction timelines and spread the cost over the useful life rather than just the construction period. It also expands access to capital market, as an alternative or in addition to potential general obligation or revenue bonding capabilities. States can now receive federal-aid reimbursements for a wide array of debt-related costs incurred with an eligible debt financing instrument, such as bond, note, certificate, mortgage or lease.

The disadvantage is that states must pass enabling legislation to be eligible and they are only applicable to long-term capital projects with broad support. GARVEEs are being used for two-thirds of the total financing for the T-REX Expansion Project in Colorado, and for one-third of the I-44 in New Mexico.[5]

In addition to these federal programs, there are three other techniques that have been used around the country.

Public-Private Partnerships (PPP)
PPPs allow private companies to finance, develop, construct and operate transportation facilities. It enables some projects to get completed sooner than under more traditional methods and it does not encumber state revenues. It creates opportunities for private investment that either earns or is guaranteed a profit, depending on the financial structure. The private company obtains the financing, including all required equity, senior debt and subordinated debt.

The disadvantages are that it is limited to projects where there is a dedicated revenue stream, such as toll projects, fees/fares or government funds and guarantees. The finance costs may be higher since there are no obligations of the state, and the price of private sector risk will add to overall project costs. PPPs have been used on the I-15 project in Utah, and the San Joaquin Hills and Foothills/Eastern toll roads in California.

63-20 Not For Profit Corporations (NFP)
An NFP is a private, non-stock corporation that may be formed under the nonprofit corporation act of a state. It does not require special legislation, but is regulated by IRS for compliance relating to federal income tax exemption and the issuance of tax-exempt debt. NFPs have long been used as a vehicle to finance the construction of public buildings in order to avoid statutory debt limitations. Recently, private developers in association with public agencies have begun to utilize the nonprofit structure to develop major transportation projects in order to preserve the ability for a project to be financed with tax-exempt bonds, while maintaining most of the flexibility of private development for both participants. They facilitate the qualification of projects to receive public funds and enable private companies to access tax-exempt debt.

[5] Appendix, C-74

The disadvantages include a higher cost debt than General Obligation Bonds, and the state must have a "beneficial interest" in the NFP while the indebtedness is outstanding. The amount of capital is constrained by revenue availability and payment commitments.

NFPs have been used to develop toll roads involving public-private partnerships such as the Pocahontas Parkway[6] in Virginia, the Southern Connector[7] in South Carolina, and the SR 125[8] in California.

Tax Increment Financing (TIF)

TIF allows cities to create special districts and to make public improvements that will generate private sector development. During the development period, the tax base is frozen at the predevelopment level. Property taxes continue to be paid, but taxes derived from increases in assessed value (the tax increment) resulting from new development either go into a special fund created to retire bonds issued to originate the development or leverage future growth in the district. It basically captures future tax revenue to pay for infrastructure that creates new tax revenue. TIFs can also be used with sales/use taxes.

The disadvantages, under Washington State law, are that 75 percent of local taxing districts must approve the use of TIF. It could also lead to a decrease in the potential general fund revenue and the volatility of the sales tax makes revenue streams difficult to predict.

[6] Appendix, F-49
[7] Appendix, F-47
[8] Appendix, F-42

HOW WASHINGTON HAS RESPONDED TO THESE CHALLENGES

Since the mid 1980's lawmakers realized that with a growing population, the number of vehicle miles traveled is double the rate of population growth, manufacture of more fuel-efficient vehicles and the explosion of housing and jobs in the suburbs that the regular sources of transportation funding were not enough. Combined with the completion of the federal interstate system and thus a shrinking federal contribution to state transportation needs, new ways to meet the funding challenge have been launched. This section highlights some of the more significant approaches that Washington State has used starting with the State Infrastructure Bank, the Public-Private Initiatives Act, and the Regional Transportation Investment District.

State Infrastructure Bank

Washington State established a State Infrastructure Bank in 1997 and capitalized it with $200,000, which was matched by $1.5 million federal funds. The bank has financed two small, local projects and plans to fund a third. Both projects have been completed, and one loan worth $385,000 has been repaid which is available for future projects. Washington State has not equaled South Carolina's disbursements because the state did not capitalize the fund with disbursements from the State General Fund as the other state did.

Public-Private Initiatives Act (PPI)

In 1993, the Washington State Legislature unanimously approved the Public-Private Initiatives Act to test the feasibility of using private financing for major public infrastructure projects. The new law allowed Washington State Department of Transportation (WSDOT) to enter into agreements with private entities to develop transportation projects and to recover some or all of the costs through tolls or other user fees. Projects could include all or a part of the design, financing, construction and operation of highways, roads, bridges, park and ride lots, or transportation management systems.

There was no opposition to the concept of the new public-private partnership law until the projects were identified. Despite efforts to ensure communities of their involvement in the final decisions about project implementation, project opponents were successful in convincing legislators to substantially amend the law.

Subsequent legislative changes to the program resulted in projects being stopped or had the effect of substantially changing the private sector's role in the projects. Tolls and the use of private financing using tolls as the revenue source generated the most controversy, and ultimately the single project constructed under PPI used public financing backed by the gas tax (see Tacoma Narrows Bridge, below). The existing law does not allow for further projects without legislative approval. Future projects developed under the current PPI Act are highly problematic.

Regional Transportation Investment District (RTID)
In 2002, the Legislature created the Regional Transportation Investment District, which encompasses King, Pierce and Snohomish counties. This new funding entity has the authority to impose a menu of taxes and tolls to pay for highway and transit projects. With bonding authority providing about $4 billion over the next 20 years and another $7 billion in other taxes, the RTID has the opportunity to make a major investment in Puget Sound Region mega projects, projects of such a large and complex nature that they do not compete for regular and limited statewide transportation funding. In addition to funding provided through the RTID, the 2003 Legislature also provided significant funding for several major projects as a "down payment" towards fixing some of the most congested corridors in the state.

Value Pricing Study
The Puget Sound Regional Council has received a $1.88 million value-pricing grant through the FHWA's Value Pricing Pilot Program. The grant will apply global positioning system technology in a pilot project aimed at finding the best ways to advance value-pricing tools in transportation planning.

In this pilot, in-vehicle meters will be placed in participants' vehicles that impose different prices per mile to travel depending upon the location and time of travel. Drivers will be made aware of the pricing through maps and a real-time read-out on the meter. The location and time of travel will be determined by an integrated GPS antenna/receiver that will also be used to calculate highway user charges. At the start of the project, participants will receive a billing account with a positive cash balance. Any cumulative meter charges will be debited against this balance. Any funds remaining in the account at the end of the project may be kept by the participants. This gives people the incentive to adjust driving behavior without committing their funds. The project is expected to start in the summer of 2004 and be completed in 2005.

Puget Sound HOT Lanes
WSDOT is currently studying the implementation of tolling in selected portions of the HOV lane system in Puget Sound. The purpose of this is to manage the demand on the HOV lane system and to provide a priced alternative to vehicles that do not meet the HOV lane occupancy threshold.

Leveraging Existing Funds
Up until the Depression years, cash was used to pay for transportation improvements. Since then, public debt has been used for highway construction projects. Debt financing increased or decreased over the years depending on the availability of tax revenues and the magnitude of needed improvements. The interest rate to borrow money has continued to decline to 30-year historic lows. The state has taken advantage of this market condition by selling more bonds to leverage existing funds.

Gas tax bonds in Washington are often referred to as “double barreled bonds” because they have two sources of tax backing. State gas tax revenues primarily back the bonds. Should gas tax revenues prove to be insufficient, the bonds are also backed by the full faith and credit of the state. Gas tax bonds are not subject to the constitutional debt limit. As the debt to revenue ratio increases, however, the amount of gas tax revenue tied up in debt service could negatively impact interest rates and encumber the cash flow necessary for operation and maintenance.

Since 1937 WSDOT has been authorized to issue revenue bonds for ferries or toll bridges. The bonds are not general obligations of the state and are payable only from revenues of the project financed. The state used this law to fund several toll bridges. In the 1970’s when the Department of Transportation was formed, revenue bond debt was reissued as full faith and credit debt. Reissuing as full faith and credit bonds significantly reduced the interest costs by reducing the risk to the investment community, and subsequently no state transportation projects have been financed solely with revenue bonds.

Dupont Interchange

In 1994, the Dupont Interchange on I-5 was 100 percent privately financed by the Weyerhaeuser Company. WSDOT led the construction of the project, which was completed in 26 months instead of 48 months in order to accommodate the Intel corporate plans to site a major plant in the Northwest Landing planned community. The private funding gave WSDOT more flexibility than available on publicly funded projects. For example, the agency was able to conduct multiple processes simultaneously, rather than follow the standard requirements of completing one step before moving to the next. Weyerhaeuser reports a decade later that it has not recovered all of the costs of the interchange—about $19 million through subsequent land developments. Part of the reason is their business decision on the location of the planned community between Seattle and Portland, and the slower than expected demand (including a decision not to site a major manufacturing facility at Dupont). However, the company also has indicated that some cost sharing by the state would have made this example more practical and attractive for future developer paid interchange projects.

Sunset Interchange

The Sunset Interchange on I-90 near Issaquah involved a partnership including both public and private partners who joined together to fund and build the interchange and associated projects. They included WSDOT, the city of Issaquah, King County, Sound Transit, the Transportation Improvement Board, Port Blakely Communities and state and federal agencies. The long, five-phase process (environmental review, engineering, permitting, right-of-way acquisition, and construction) was shortened by overlapping them. As a private company, Port Blakely also took the risk that no government agency could do by beginning the purchase of right-of-way in advance of final approvals for the access road to its Issaquah Highlands development. This approach could be used for other interchanges with the joint agreement of all interested parties.

Tacoma Narrows Bridge
In 1994, United Infrastructure Company (UIC) was one of three companies to propose improvements to the Tacoma Narrows Bridge and SR 16 corridor under the PPI Act. The State Transportation Commission approved the company's proposal. Execution of the partnership was delayed in 1995 due to legislative requirements for an advisory election on the project. Following a successful vote in 1998 in which 54 percent of the voters approved the use of tolls for the project, the WSDOT and UIC executed an agreement and plans for financing the project were prepared. These plans involved the creation of a nonprofit entity to issue the debt and set the tolls for the project.

In the 2000 legislative session a state financing plan emerged and was approved in 2001. The Tacoma Narrows Bridge project is financed with tolls, but the bonds are not revenue bonds. The bonds are backed by the gas tax and the full faith and credit of the state.

The partnership with UIC was terminated by the state and UIC was compensated for its work on the project. The project is now under construction with a fixed-price and schedule design/build agreement between Tacoma Narrows Constructors, a construction venture of Kiewit Pacific and Bechtel and WSDOT.

Privately Operated Ferries
The 2003 Legislature unanimously approved House Bill 1853 which granted Kitsap Transit the right to create a public transportation benefit district to operate passenger-only ferries within ten miles of state ferries; access to state ferry facilities; and to collect taxes to support fast ferries. Kitsap Transit planned a public-private partnership with a private corporation who will run the services and the agency will provide the capital and control the tariffs and service levels. The new law allows transit agencies to add up to 4 percent sales tax and up to .4 percent motor vehicle excise tax. Kitsap voters must approve a tax increase as one of the conditions for this new service. The tax measure failed to secure voter approval in November 2003. Efforts are now underway to investigate the potential of private sector provided passenger ferry service.

Transportation Permit Efficiency and Accountability Committee (TPEAC)
TPEAC was formed in 2001 to examine opportunities to streamline environmental permitting of transportation projects including developing a pilot process for projects, a one-stop permit decision-making process for projects of statewide significance, and a multi-agency, multi-jurisdictional programmatic permitting process. The committee is made up of representatives of cities, counties, the Departments of Transportation, Fish and Wildlife, and Ecology, and four legislators, as well as representatives from industry, environmental groups, and state and federal agencies.

The TPEAC committee was re-authorized in the 2003 session. One major innovation that is currently under development is the use of Watershed Mitigation Strategies. The goal is to achieve the best environmental outcomes with available resources. Other innovations include multi-agency permit centers and online permit application strategies.

WHAT OTHER STATES HAVE DONE

The following projects are examples of what other states have done using a variety of innovative financing alternatives. More information is provided in the Appendix.

TIFIA Loan

The Central Texas Turnpike[9] is a new 122-mile contiguous turnpike facility in the Austin-San Antonio corridor that consists of four distinct, but interconnected elements. The largest component, SH130 will be 90 miles of "Greenfield" turnpike parallel to I-35. All four elements will be constructed as a 6-lane access highway with electronic toll collection. The $4.8 billion financing includes the following:

Project Debt 73%
$917 million TIFIA direct loan
$1.7 billion Texas Turnpike Authority (TTA) Revenue Bonds
$900 million TTA Bond Anticipated Notes

Other Funding 27%
$700 million DOT funds
$500 million Local ROW contributions

This was the first time that the Commission had issued bonds to finance the construction of a state highway. The source of revenue will be tolls.

TIFIA Loan Guarantee

SR 125 South[10] is a new 9.5-mile private toll road in San Diego county running from SR 905 near the International Border to SR 54 connecting the only commercial port of entry to the regional freeway system. It is authorized under California's AB 680 which authorized Caltrans to enter into agreements with private entities for the development, construction and operation of demonstration projects. The $672 million financing includes the following:

Project Debt 80%
$400 million revenue bonds
$140 million TIFIA loan

Other Funding 20%
$132 million other federal and local funding

The source of revenue will be tolls.

[9] Appendix, F48
[10] Appendix, F42

TIFIA Line of Credit

The Orange County Transportation Corridor Agencies[11] (OCTCA) are multi-jurisdictional authorities charged with the construction of toll road facilities. Seed capital was provided by loans from the OCTCA which also funded the pre-construction costs with development impact fees. The OCTCA sold two separate bond issues, each raising funds for the San Joaquin Hills (SJH) and the Foothills/Eastern (F/E) Corridors. The SJH is a new 15-mile limited access toll road from I-5 to I-405 to relieve congestion on both Interstates in Orange County. The F/E is a new 24-mile limited access toll road connecting Riverside County's residential areas and Orange County's southeastern suburbs and northern San Diego. The $1.6 billion financing for the SJH includes the following:

Project Debt 84%
$120 million TIFIA line of credit
$1.1 billion Senior-lien Revenue Bonds
$91 million Junior-lien Revenue Bonds
$38 million Project Revenue Certificates

Other Funding 16%
$31 million Advance-funded Development Impact Fees
$40 million California Transportation Commission Grant
$71 million State and Local Transportation Partnership Program
$106 million Interest Earnings

Revenues come from tolls, development impact fees, and interest earnings.

Section 129 Loans

The President George Bush Turnpike[12] is a new 26-mile toll road connecting Dallas to the northern suburbs. It is a joint project of the Texas DOT and the North Texas Turnpike Authority (NTTA), which became responsible for the construction and operation of toll facilities in the Dallas-Fort Worth area after the state-level Texas Turnpike Authority was dissolved by the Legislature. The NTTA is a self-supporting political sub-division of the state and receives no tax funds. Debt service, operations, and maintenance are funded entirely from user fees. The $569 million financing includes the following:

Project Debt 78%
$308 million NTTA Revenue Bonds
$135 million Section 129 Loans

Other Funding 22%
$67 million Interest Earnings
$20 million NTTA Capital Improvement Fund
$39 million ROW donations

[11] Appendix, F40
[12] Appendix, F 48

Revenues come from tolls.

Federal Matching Funds
Toll revenue credits allows states to accumulate credits based on toll revenues to build, improve, or maintain certain highways and bridges. Ohio DOT[13] is using toll credits as the state matching share for GARVEE bond reimbursements to maximize transportation resources. Ohio has used $286 million out of $653 million from excess expenditures generated by the Ohio Turnpike System as a credit towards the non-federal matching share of eligible projects, including $130 million for a group of nine major improvement projects. Toll credits do not provide cash to the project to which they are applied, but their use effectively raises the federal share to up to 100 percent on projects receiving toll credits.

State Infrastructure Banks (SIBs)
Using an array of innovative financing techniques, the South Carolina "27 in 7"[14] is advancing 27 years of road and bridge projects in seven years. The $5 billion program is using the State Infrastructure Bank to fund large projects, over $100 million, and is currently leveraging its capital through bonding. The $3.75 billion financing is as follows:

Project Debt 80%
$1.2 billion SIB bonds
$550 million General Obligation Highway Bonds
$620 million MPO bonds
$620 million COG bonds

Other Funding 20%
$310 million Interstate Improvement Program
$450 million System/Intermodal Connectivity

Revenues come from a combination of tolls, a one-time only $66 million capitalization from the State General Fund, annual share of the state gas tax, annual truck registration fees, local hospitality fees, and federal capitalization funds.

Grant Anticipation Revenue Vehicles (GARVEEs)
The Transportation Expansion Project[15] (T-REX) will widen 17-miles of I-25 and I-225 and construct a 19-mile Light Rail Transit line extension along the west side of I-25 and the median of I-225 linking the Denver Central Business District with the Southeast Business District, the two largest employment centers in the region. The $797 million financing is as follows:

[13] Appendix, F 51
[14] Appendix, F 47
[15] Appendix, F 43

Project Debt 85%%
$680 million GARVEE bonds

Other Funding 15%
$117 million annual sales and use tax revenues

Revenue is coming from annual sales and use tax revenues.

Public-Private Partnerships
Colorado has two Public Highway Authorities[16] (PHA) that are political subdivisions of the state with similar powers, including eminent domain, and are established by cities and counties. The Colorado DOT serves as ex-officio board member. The enabling legislation gives the PHA the power to finance, construct, operate, or maintain all or a portion of a beltway in a metropolitan region which cannot feasibly be financed by one jurisdiction acting alone. The financing for the Northwest Parkway included $417 million in tax-exempt revenue bonds and the revenue will come from tolls.

The Pocahontas Parkway[17] is a new 8.8-mile toll road connecting I-95 and I-29 near Richmond, Virginia International Airport, including a high-level bridge over the James River. The Pocahontas Parkway Association was established to finance the project and attracted investors who will be repaid entirely by tolls. The PPA will oversee the road until the bonds are paid, and this is the first project under Virginia's Public-Private Transportation Act which was designed to provide access to new sources of capital in accelerating the delivery of new facilities. The $416 million financing is as follows:

Project Debt 98%
$380 million in tax-exempt toll revenue bonds
$27 million in SIB loan

Other Funding 2%
$9 million in federal funds for design costs

Revenue is coming from tolls.

63-20 Nonprofit Corporations (NFPs)
The Southern Connector[18] is a 16-mile toll road bypass of Greenville, South Carolina between I-185 and I-385 owned and operated by the Connector 2000 Association. The $418 million financing includes the following:

[16] Appendix F 43
[17] Appendix F 49
[18] Appendix F 47

Project Debt 96%
$200 million tax-exempt bonds sold by 63-20 corporation
$66 million senior current interest bonds
$87 million senior capital appreciation bonds
$47 million subordinate capital appreciation bonds

Other Funding 4%
$18 million state funds for a connector road

Revenue is coming from tolls.

Value Pricing
The SR 91 Express Lanes[19] is a four-lane highway in the median of a 10-mile section of the Riverside Freeway connecting Orange and Riverside Counties. It was the first privately financed toll road to open in the U.S. in over 50 years, and the first fully automated toll road in the world, and the first variably-priced toll road in the U.S. Tolls have ranged from $1 to $5 and require the use of transponders. The project was purchased from the California Private Transportation Company by the Orange County Transportation Corridor Agency in 2002. The original $130 million financing included the following:

Project Debt 84%
$9 million subordinated to OCTCA for engineering/environmental work
$65 million 14-year variable rate bank loans
$35 million long-term loans

Other Funding 16%
$20 million private equity

Revenue is coming from tolls.

[19] Appendix F 41

WHAT WE'VE LEARNED

As described above, there are a variety of alternative financing techniques that are in use across the United States and throughout the world. Each technique, whether revenue generation or financing and regardless of its success or failure elsewhere, must be measured as to its appropriateness to Washington State circumstances, needs and public acceptability.

Alternative financing techniques fall into three categories: those increasing the revenues available for financing projects (e.g., tolls), those accelerating the availability of revenues to optimize project investments (e.g., GARVEE or SIB) and those reducing the costs of the projects themselves (e.g., permit reform). Experience from other states and countries, as cited in this report, suggests these alternative techniques, in and of themselves, are inadequate to meet the forecasted shortfall in transportation funding.

Consequently, even though the gas tax is problematic and its future ability to support needed infrastructure uncertain, it will remain the basis of our transportation funding strategy for the foreseeable future. At the same time it seems appropriate to supplement the fuel tax with direct user fees, other funding mechanisms and reduced project delivery costs.

In recent years, Washington State experimented with a number of revenue generation and debt financing tools.[20] For example, the State Infrastructure Bank, though seriously undercapitalized, does allow funds to be leveraged to attract private, local and additional state resources. The Public-Private Initiatives Act provided an opportunity for re-introducing tolls to generate revenue on a project specific basis. It also envisioned a shift of risk and liability to the private sector along with a more efficient streamlined permitting and design process. These actions were expected to increase efficiency and reduce the cost of project delivery. But, the lack of political acceptability of these approaches and the resulting legislative intervention has rendered the existing law ineffective as a vehicle for exploring toll implementation or public-private partnerships.

Despite these difficulties, the Legislature has been recently successful in designing a mechanism to generate additional revenue and focus those resources using leveraged financing. The Regional Transportation Investment District provides the opportunity for the region to determine priorities in the selection of projects and the price there is a willingness to pay for the services and improvements rendered. The success of this approach will be determined by the ability to achieve public consensus. The same is true for setting the direction for future policy decisions as it relates to the use of alternative revenue generation and financing.

[20] Appendix, B-1 and C-1

FINDINGS AND RECOMMENDATIONS

The committee recognized that no consensus on transportation strategy currently exists in Washington State and this report would not create that consensus. Further, current transportation funding and strategies will not produce enough revenues to pay for all of the improvements that are required on the state transportation system. Consequently, we chose to focus on making this report a resource manual for those who, we trust, will seek over the next legislative sessions to construct such a viable transportation strategy for Washington State.

These recommendations represent a broad range of tactics to finance and fund transportation projects. While there was not a formal vote for each recommendation by the Committee as a whole, they reflect the broad base of ideas generated by individual members.

A. Reduce the Costs of Project Delivery

Strategic Planning

Findings

Planning for multi-modal approaches requires the application of critical standards of population density and phase-in strategies that maximize future options and outcomes without diverting excessive resources prematurely. One example is the need for a new North/South and East/West corridor. To preserve these options, partnerships with local jurisdictions and the private sector as well as right of way acquisitions necessitate long-term planning.

State law does not require local comprehensive plans to set aside land that is required for building state transportation improvements. The result is that land acquisition costs can substantially increase during the time it takes to develop and fund a state transportation project. The Department of Transportation has identified projects that will require future land purchases in the statewide transportation plan, yet there is no way to compel local jurisdictions to reserve land or rezone specific properties for future projects.

Recommendations

Long-term strategic planning for the state must be strengthened to preserve opportunities for the future and insure that the needs of the statewide system are addressed including the requirement that local comprehensive plans identify and reserve land that is required for future expansion and development of highways of statewide significance that are identified in the statewide transportation plan in order to reduce right of way acquisition costs.

Environmental Requirements

Findings

Federal and state environmental requirements have been defined in various state and federal laws that have been enacted over the years with little integration of

requirements and processes. This has created delays in delivering transportation projects and as a result substantial increases in project costs. The Legislature passed legislation to reform the environmental permitting processes by creating the Transportation Permit Efficiency and Accountability Committee (TPEAC) with the goal of protecting public interests while reducing the time and costs involved in delivering transportation projects.

Recommendations
Continue to examine ways to compress the environmental review and approval of transportation projects so that projects can be delivered in a cost effective and timely manner. Focus on strategies that are being explored by TPEAC, such as programmatic permitting and integrated permit processes for major or "unique" projects.

Local comprehensive planning should include as many elements of the Federal NEPA requirements as possible. These could include the analysis of reasonable alternatives and impacts of growth projections on ESA protected species. These activities should be conducted in close collaboration with the relevant Federal Agencies and documented for application at the time of the formal NEPA review. The availability of these materials should count toward qualifying projects for state funds. Limiting federal requirements to the extent possible also reduces the complexity of environmental review.

B. Recover Transportation Investment Costs

State Impact Fees
Findings
Future economic growth relies upon the construction of new transportation facilities and the reconstruction of existing highways, bridges and interchanges. For example, a new state highway interchange may be required to open up new land for development. The increased land values and the economic benefits enjoyed by property owners may provide a source of funds to help offset the cost of the construction of the interchange.

State law allows local governments to recover some or all of the cost of public infrastructure required for new developments. Occasionally, the state negotiates the cost of required improvements and impacts with local agencies, but there is no authority for the state to recover its costs of transportation improvements.

Recommendations
1. The state should be granted the authority, similar to a local government's authority, to impose state impact fees to pay for highway improvements that are required for business location or expansion.

2. Local governments should be authorized to recover costs for state highway improvements through the creation of special taxing authorities that assign future increased property or sales taxes to pay for specific projects.

C. New Revenue Opportunities

Index Gas Tax

Findings

Although the gas tax will remain the primary source of funding transportation, without continuing legislation, existing revenues will not be able to keep up with inflation. However, this source of funding does not increase with inflation, yet the costs of the products it purchases—labor and materials, do increase with inflation. The use of alternative fuels will further erode the ability of the gas tax to keep up with growing needs. There is also a need to spread resources geographically, even though the highest funding needs are concentrated in the urban areas. The nature of project development and construction also influences the amount of funds that are needed from one year to the next creating huge swings in required cash flows.

Recommendations

The Legislature should authorize the use of an index to increase the gas tax to a measure of inflation and growth so that existing collections can grow with the economy and population. Identify and evaluate different indexes so that an appropriate one may be selected.

Dedicated Transportation Taxes

Findings

There are a number of transportation related taxes that are collected and placed in the general fund to pay for general government services and programs. Currently, sales tax is paid on transportation construction labor and materials thereby increasing the costs of delivering transportation projects. Excise taxes for aircraft and watercraft also generate revenues for general fund purposes.

Recommendations

All transportation fees, charges and taxes, such as the sales tax on transportation construction labor and materials, and excise taxes on aviation and marine fuel, should be dedicated to transportation purposes.

Weight Fees

Findings

Washington State imposes weight fees only on trucks to pay for damage to roadway surfaces caused by their weight. New hybrid vehicles and the use of alternative fuels will require adjustment in our future fuel tax strategy. Weight fees may offer equitable revenue generation not tied to cost allocation for road damage.

Recommendations
Authorize the extension of the existing gross weight fee to all vehicles that use the roadway system, including passenger cars, sport utility vehicles and recreation vehicles.

D. Transportation Debt Policy

Transportation Debt Limit

Findings
The state does not have a constitutional or statutory debt limit for transportation. In practice, the amount of debt that is issued for transportation is constrained by the available revenues to service the debt. Recently, the state has leveraged more debt to pay for transportation through voter approval of Referendum 49 bonds and the recent "nickel" gas tax increase, which will be leveraged by selling bonds that will be repaid over the next 20 years.

Recommendations
1. The State Legislature should use discipline in the use of debt for transportation by creating a debt management policy and a statutory debt limit. Enact state policy that requires new or existing revenue streams to provide adequate reserves to pay for maintenance and operation of the transportation system. Standards or thresholds should be identified to manage and control the ratio of debt vs. pay-as-you-go funding methods.

2. Transportation agencies should be required to use modern financial reporting methods so that assets are managed in the most cost efficient manner.

Use of Federal Innovative Finance Programs

Findings
Federal "innovative finance" programs allow states more flexibility in deciding how federal funding should be used. For example federal policies allow states to use federal-aid highway funds to pay debt service by issuing "GARVEE" bonds. Federal loans, lines of credit and loan guarantees are available for selected public-private projects under the Transportation Innovative Finance and Innovation Act. Federal aid highway funds may also be used to capitalize State Infrastructure Banks. States may also lend federal-aid highway funds to eligible projects. (See Page F-38 for more detail on federal innovative finance programs.)

Recommendations
The state should take advantage of federal innovative finance programs to pay for projects so long as sound debt management policies are adhered to.

E. Impose Tolls

Toll Authorization

Findings

Tolls have been used to pay for the construction of 14 major bridges in Washington State. However, tolls have not been imposed since the last toll was collected on the Evergreen Point Bridge in 1979. In 2002, tolls were authorized by the Legislature to pay for the new Tacoma Narrows Bridge, which begins another era in our state's history of tolled bridges.

The authority to impose tolls was transferred from the State Toll Authority to the State Transportation Commission in the early 1970's. The Commission is charged with setting the tolls on the Tacoma Narrows Bridge Project. State law requires the Commission to set tolls sufficient enough to pay for debt services. State law also requires the Transportation Commission to set tolls for projects that are financed by the Regional Transportation Investment District. There is ambiguity over the obligation of the State Transportation Commission to ensure that tolls are sufficient to pay for debt service on the RTID projects. It is also unclear as to how risk will be managed in these projects that are not controlled by the state, yet may carry the full faith and credit obligation of the state.

Recommendations

Enact a mechanism or structure to identify how tolls will be established and to provide the state with protection from risk exposure. Clarify the state's role in the issuance of debt where state obligations are required.

Tolls for Maintenance and Operations

Findings

Washington's history with toll bridges has involved the use of tolls to pay for maintenance and operations of the facilities until the debt is retired. After the bonds were paid, tolls were removed and the ongoing maintenance and preservation costs were paid by the state. Today, the plan is to use tolls to pay for maintenance and operations of the new Tacoma Narrows Bridge, but not the existing bridge.

Recommendations

Tolls must be authorized to pay for construction of new facilities and to pay for repair, replacement, maintenance and operation of those transportation facilities. Any new projects that are paid for with tolls must impose tolls to pay for maintenance during the tolling period.

Toll Policy

Findings

Public support for the imposition of tolls has been difficult and there is a need to engage the public in a strategy to use tolls to pay for some transportation projects and services. The fares paid by riders on Washington State ferries are an example of how tolls might be imposed. Fares are set through a statutory

process that requires fare analysis and public involvement in determining the ferry fare structure. The reintroduction of tolls will also require the development of a policy rationale that is consistent and fair to all classes of users.

Recommendations
Evaluate policies to allow tolls to be imposed in order to improve traffic conditions. Develop a mechanism for the identification of a separate list of toll eligible projects. Projects containing a locally approved toll facility should receive greater consideration in establishing priority and funding. Define the equity issues involved with tolling and develop strategies to address them.

F. Transportation Market Based Pricing

Alternate Pricing Strategies
Findings
Economists have argued for decades that transportation market mechanisms can be used to regulate travel behavior, allocate transportation resources, and raise revenue. Utilities use pricing to regulate market demands. Airlines use pricing to manage peak travel times and routes. Market based pricing changes the way we make investments in the transportation system.

There have been a number of experiments nationally and in other countries to introduce market pricing in transportation. The motivation of other states employing new pricing strategies varies. Oregon is experimenting with pricing by vehicle miles traveled as a way to begin the transition to reduce reliance on the gas tax as a source of transportation funding. California has raised revenues by selling underutilized capacity in High Occupancy Vehicle (HOV) lanes. California has also built High Occupancy Toll (HOT) lanes in corridors as a way to manage traffic congestion. Florida and Colorado use a “system-wide” pricing scheme that allows revenues to be used to make improvements to a collection of projects.

New technology has also provided new opportunities to explore different pricing options. Electronic toll collection, global positioning systems and “OnStar” devices are available to use in implementing new pricing systems.

Whatever value that has been found in market pricing of transportation, the public has not been convinced of its merits with one noted exception. HOT lane projects in California and Texas have received a high level of public support. Both states are planning to expand their HOT lane programs.

Recommendations
The state should begin to study and monitor different pricing strategies that are implemented in other states to ascertain whether they can be implemented in Washington State. These studies should include feasibility pilot projects, to ascertain the transportation management and public acceptance potential of HOT lanes and other market-based pricing concepts.

G. Expand Transportation Investment Districts

Expanding RTID Concept
Findings
The Regional Transportation Investment District is a new regional financing approach for state transportation projects that involves the collection of regional taxes to pay for selected projects. There is a need to expand this regional approach to financing state transportation projects, particularly regional projects that provide connections to the statewide system. The Transportation Benefit District legislative proposal is one approach to creating more options for local jurisdictions

Recommendations
Authorize other jurisdictions in the state to form "investment" districts to develop, finance and construct state transportation projects. Allow flexibility in determining which projects have a regional interest and focus funding on those projects that enhance regional mobility.

H. Business Investment in State Transportation Infrastructure

Priority Programming Process
Findings
Washington State's economy relies on the ability of businesses to locate and expand in areas where infrastructure supports their activities. This may mean expanded roads, new accesses, or the development of new transportation services. The process to obtain approvals for required state transportation projects can be confusing, unpredictable and not very flexible.

Some businesses may be willing to advance funding for construction of projects that are required. The state does not have an established mechanism for negotiating these types of offers nor is there a source of funds that are advanced to the state for construction.

The existing priority programming process does not adequately address emerging needs created by business investment opportunities. The result can be delays that negatively influence the business climate of the state.

Recommendations

1. WSDOT's strategic planning program should be strengthened to address the needs of Washington's businesses by identifying the requirements for funding and constructing transportation projects.

2. WSDOT should continue to enhance and create ways to improve the ability of businesses to work with the state to reduce barriers to project approvals. For example, a centralized contact for business development could be established.

3. Flexibility should be provided in the state priority programming process to accommodate emerging business development needs.

4. WSDOT should seek opportunities to develop projects that can create value so that it can then be reinvested in transportation facilities.

5. There needs to be greater coordination between state, local and regional planning efforts.

I. Future Public-Private Partnership Program

Limitations of Existing Legislation

Findings

Implementing public-private partnerships to develop, finance, construct and operate transportation projects has been difficult for most states. In 1993, Washington was the fourth state in the nation to enact legislation creating a formalized public-private partnership effort. Despite numerous legislative amendments since then, one project, the Tacoma Narrows Bridge, is being financed and constructed under the Public-Private Initiatives Act. However, the existing law does not allow for further projects to be developed without legislative approval. There is also a sense that future public-private projects will be difficult to accomplish because of the state's tumultuous experience.

Federal transportation policy continues to strongly support using public-private partnerships; and while the state is not pursuing public-private projects at this time, there may be opportunities in the future that could be explored.

Recommendations

1. Preserve the existing PPI law (RCW 47.46) so that the Tacoma Narrows Bridge project construction can proceed under existing law.

2. Enact state law to allow new public-private partnership opportunities to develop, finance, construct and operate all or a part of any transportation project. This new law should:
   a. Create eligibility criteria that accommodate large and small transportation projects;

b. Provide an alternative procurement process to the existing public works contracting process;
c. Give WSDOT the authority to solicit proposals and to consider unsolicited proposals;
d. Provide opportunities for the private sector to be involved in early development of the project;
e. Provide legal mechanisms for the private sector to recover capital investments by developing innovative project finance plans;
f. Authorize WSDOT to negotiate a maximum rate of return on private capital investment;
g. Give WSDOT the authority to negotiate with private parties and to enter into agreements that allocate risks appropriately; and
h. Authorize the use of state resources including funding that is subject to legislative approval.

3. Capitalize and expand the funding authority of the State Infrastructure Bank to provide greater opportunities for lending, including loans to private project sponsors. The Bank's role should include the provision of services to aid in the formation of partnerships and identification of funding sources and revenue strategies.

APPENDIX

The TIFA Legislative Oversight Committee met throughout 2002 in six half-day sessions. Following the adjournment of the 2003 Legislative session, the TIFA Committee reconvened 3 more times and began to formulate their findings and recommendations.

All of the TIFA Committee meeting agendas and materials may be found in TABS A-G. They provide a valuable resource of information that was provided to the members. The following speakers presented information at the TIFA meetings:

Amy Arnis, Manager, Financial Planning Office, WSDOT
Rhonda Brooks, Manager, Public-Private Partnerships, WSDOT
Michael Cummings, Environmental & Systems Director, WSDOT
Jerry Ellis, Director, Transportation Economic Partnerships, WSDOT
Representative Ruth Fisher, Chair, House Transportation Committee
Mike Groesch, Staff Coordinator, Senate Highways & Transportation Committee
Charlie Howard, Director, Planning and Policy Office, WSDOT
Matthew Kitchen, Senior Planner, Puget Sound Regional Council
Kevan "Butch" Kvamme, TRYGVE Investments
Jennifer Mayer, Innovative Finance Specialist, FHWA
Robert Miller, Director, Partnership Development, B.C. Ministry of Transportation
Tom Miller, President, Weyerhaeuser Real Estate Development Company
Paul Neal, Counsel, House Transportation Committee
Senator Bob Oke, 26th District
Randall Pozdena, Managing Director, ECONorthwest
Jay Reich, Esq., Preston Gates Ellis, LLP.
Gene Schlatter, Advisor to Vulcan, Inc.
Hugh Spitzer, Foster Pepper & Shefelman, PLLC.
Geoffrey Yarema, Partner, Nossaman Guthner Knox & Elliott, LLP

In addition, TIFA Committee members were afforded the opportunity to visit other states and meet with project officials to learn about transportation projects that involved innovative financing plans. These briefings are summarized in TAB G.

TAB A June 24, 2002

Agenda A-1

Materials:

- Yarema, Geoffrey, Partner, Nossaman Guthner Knox & Elliott, LLP *Transportation Project Delivery: Options, Public-Private Roles and Suitability Criteria,* June 2002. A-2
- Nossaman, Guthner Knox & Elliott, LLP *Surface Transportation: "Tools" in the Privatization "Tool Box",* June 2002. A-31
- Nossaman Guthner Knox & Elliott, LLP *Public-Private Initiatives: Projects in Implementation Phase,* June 2002. A-69

TAB B July 30, 2002

Agenda B-1

Materials:

- WSDOT Transportation Economic Partnerships Office. *Overview of the Public-Private Initiatives Program*, July 2002. B-2
- Texas DOT, Texas Turnpike Authority Division, *Selected North American Toll Roads*, 2002. B-15
- Spitzer, Hugh, Foster Pepper & Shefelman PLLC. *Alternative Approaches to Financing Transportation Infrastructure*, July 2002. B-16
- Pozdena, Randall, ECONorthwest, Inc., *The Crucial Role of Pricing in the Reform of Road Finance*, July 2002. B-19
- Pozdena, Randall, ECONorthwest, Inc., *Paying for Roads*, The Seattle Times, May 5, 2002. B-33
- Miller, Tom, Weyerhaeuser Real Estate Development Company, *I-5 Interchange at Northwest Landing*, July 2002. B-35

TAB C September 26, 2002

Agenda C-1

Materials:

- Federal Highway Administration, *Innovative Finance Primer*, 2002. C-2
- Pryne, Eric, *California Tries Tolls for Traffic Relief*, The Seattle Times, August 11, 2002. C-62
- Parsons Brinkerhoff, *General Characteristics of Selected North American Toll Facilities*, July 2002. C-64
- Mayer, Jennifer, FHWA, *Federal Innovative Financing Opportunities,* September 2002. C-65
- Mayer, Jennifer, FHWA, *GARVEE and Construction Reimbursement Debt Issuance*, September 2002. C-96
- Mayer, Jennifer, FHWA, *Anticipated Future Use of Federal-Aid Funds for GARVEE Debt Service*, September 2002. C-98
- Neal, Paul, Legislative Transportation Committee, *Financing Mechanisms Available Under Current Law*, September 2002. C-99

TAB D November 12, 2002

Agenda D-1

Materials:

- B.C. Ministry of Highways, British Columbia Public-Private Initiatives Newspaper Articles, July 2002. D-2
- WSDOT, Transportation Economic Partnerships Office, Institutional Arrangements/Lending Programs/Revenue Generation Ideas Matrix, November 2002. D-8
- Spitzer, Hugh, Foster Pepper & Shefelman, PPLC, Infrastructure-How to Pay for It-Public Sector Debt Financing, September 2002. D-14

TAB E December 16, 2002

Agenda E-1

Materials:

- Cummings, Michael, WSDOT, *Tolling Analysis Update*, December 2002. E-2
- Howard, Charlie, WSDOT, *Puget Sound HOV Lane Hours of Operation Evaluation*, December 2002. E-14
- Kitchen, Matthew, Puget Sound Research Council, *GPS-based Pricing Demonstration Project*, December 2002. E-26

TAB F August 13, 2003 Work Session

Agenda F-1

Materials:

- TIFA Worksheet-Innovative Financing Options F-2
- What is the Problem F-10
- Washington State Experience F-29
- Federal Program F-38
- Other States' Programs F-39

TAB G Project Briefings

- Denver, CO, July 2002 G-1
- San Diego, CA, October 2002 G-2
- Orange County, CA, October 2002 G-3
- Seattle, WA, October 2002 G-3
- Chicago, IL, October 2002 G-4